HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 8585 OF 19972006

Between:

T. Srinivas Rao

...Petitioner

AND

1. The A.P.S.R.T.C., Hyderabad and others

.....Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 8585 of 1997

Oral order:

The essential grievance of the petitioner is that he was not selected and appointed to the post of Conductor Grade III in Guntur region despite obtaining higher marks at the oral interview, the sole basis for selection to the post.

The petitioner belongs to a backward community – B.C-B. He qualified himself by passing the 10th class examination in 1978 compartmentally (not in one attempt). He was registered at the Employment Exchange, Guntur in 1981. One and half decades later, he received a call letter on 30-10-1996 from the Personnel Officer of the Guntur region of the first respondent intimating that he has been sponsored by the District Employment Office, Guntur. Enclosed to this intimation was an application form. The petitioner filled up the application form and submitted the same along with the required enclosures. He was called for the interview and was informed by the second respondent that he had secured 78% of marks threat. He was however not issued an order of appointment. He learnt that the last candidate belonging to the B.C-B category, who was selected and appointed as a Conductor in the Guntur region, secured only 73% marks at the interview. When he made enquiries, the petitioner was informed that though he had secured higher marks in the interview, he was not appointed as he had passed the qualifying examination of SSC compartmentally and not at one attempt. The petitioner contends that neither the employment notification, the application form nor the call letter stipulated that candidates who had passed S.S.C. examination compartmentally are ineligible or that candidates who pass the examination in one attempt are to be preferred over candidates who pass the SSC examination compartmentally. He is therefore before this

court assailing the strategm adopted by the respondents to discriminate against him to deprive him unlawfully of appointment to the post of Conductor in the Guntur region.

The Law Officer of the A.P.S.R.T.C. has filed a counter affidavit. According to the counter, for recruitment to the post of Drivers and Conductors, the respondent-Corporation had issued a circular setting out uniform procedures and guidelines to be followed for recruitment. The Circular dated 29-05-1991 stipulates, according to the counter affidavit, that selection to the post of Conductor is purely on the basis of marks obtained in S.S.C. or an equivalent examination. The counter is wholly vague and equivocal. The circular is not placed before the Court for perusal. It is not asserted that the Circular dated 29-05-1991 issued by the Corporation stipulates that candidates who pass S.S.C. in one attempt should be preferred over candidates who pass the examination compartmentally.

The counter affidavit also asserts that 218 posts of Conductors had arisen in 1996 in the Guntur region and these were notified to the District Employment Exchange, Guntur on 10-09-1996. The Qualifications prescribed for Conductor Grade-III were also intimated to the employment exchange. The required qualification is a pass in S.S.C. or an equivalent examination. 4,360 candidates in the ratio of 1:20 were sponsored by the Employment Exchange, Guntur and all the candidates were sent call letters calling for their bio-data in the specified enclosures. As selection to the post of Conductor was on the basis of S.S.C. or equivalent examination, the appropriate selection committee of the Corporation claims to have selected candidates who had passed S.S.C. or the equivalent examination, in one attempt. In paragraph No.5 of the counter, it is suggested that the ‘circular guidelines issued by the corporation’ mandate that the candidates who had passed compartmentally should be considered only after considering the candidates who had passed the qualifying examination in one attempt. It is pleaded that as in this batch of candidates there were many who had passed in one attempt and were thus more meritorious than the

petitioner, the petitioner could not come up for selection and appointment. It is admitted that the candidate who got lesser marks in the interview was preferred because the said candidate had passed the SSC examination in one attempt as against the petitioner who had passed S.S.C. examination otherwise.

According to the learned counsel for the respondent-Corporation, Regulation 35 of the A.P.S.R.T.C. Employees Recruitment Regulations, 1966 enables the Corporation to issue instructions not inconsistent with the Regulations, as it may consider necessary to give effect to and for carrying out the purposes of the Regulations or otherwise to secure effective control of employees to whom the regulations apply.

In the counter affidavit, it is also pleaded that as per the circular guidelines, candidates who passed the examination compartmentally have to be considered only after considering candidates who passed the qualifying examination in one attempt. As among the candidates there were many who had passed the SSC examination in one attempt and in all categories such as OC, BC, SC and ST, they were found to be more meritorious and on account of having not passed the SSC examination in one attempt, the petitioner could not come up for selection and appointment. The counter admits that the petitioner obtained 78% marks at the interview, but had passed the SSC examination compartmentally and therefore, was not selected for appointment.

On 25.4.1997 this court directed the respondents to reserve one post. This order has not been vacated. As the said order has not been vacated, one post of Conductor Grade III in the Guntur Region must have remained unfilled and continues so till date.

Neither in the notification calling for applications nor in the call letter sent to the candidates for interviews, is there any mention that the candidates who pass the SSC examination in one attempt will be preferred over candidates who pass the examination compartmentally. The statutory rules merely require that one should possess SSC qualification for appointment to the post of Conductor Grade-III. In the

circumstances, the circular instructions, which are in the nature of administrative guidelines cannot carve out a preference for candidates who pass SSC examination in one attempt as this could amount to an amendment of the statutory rules, which in terms stipulate that all candidates (who pass the SSC in one attempt or compartmentally) are qualified. The circular instructions to the extent they are amendatory of the rules are therefore inconsistent with the rules. The impermissibility of prescribing a preference for SSC candidates who pass in one attempt over those who pass SSC examination compartmentally is accentuated, when it is considered that the respondents have also adopted a method of selection for the post. When the process of interview is adopted all persons including those who pass SSC examination compartmentally are called for the interview. In the absence of any statutory rules permitting an alternative course of action, fair administrative practices demand that the marks at the interview should determine the selection and eventual appointment to the post of conductor.

For the aforesaid reasons, the conduct of the respondents in denying appointment to the petitioner, who admittedly obtained higher marks in the interview and who was otherwise eligible for the appointment to the post of conductor Grade-III, is arbitrary, illegal and unsustainable. It is so declared.

Consequently, the Writ Petition is allowed and the respondents are directed to consider issuance of an appointment order to the petitioner in accordance with the factum of his obtaining higher marks at the interview to the post of Conductor Grade-III in the Guntur Region of the respondent-Corporation. No order as to costs.

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GODA RAGHURAM, J

Date: 27.06.2007
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